

DEPARTMENT OF THE ARMY
HEADQUARTERS CARLISLE BARRACKS
CARLISLE, PENNSYLVANIA 17013

September 30, 2002

REPLY TO THE ATTENTION OF
Legal Assistance Office

**SUBJECT: Protection Against Abuses Through Door-to-Door and
Telemarketing Sales Practices.**

1. Purpose. To make people aware of their rights protecting them from unfair or harassing door-to-door and telephone sales solicitations.
2. References.
 - a. 16 C.F.R. 429
 - b. 32 C.F.R. 552.63
 - c. 67 FR 4492-01, 16 C.F.R. 310 - The Telemarketing Consumer Fraud and Abuse Prevention act (1994).
 - d. 47 USC 227 - Telephone Consumer Protection Act (1991).
 - e. Pub. L 107-56 - USA Patriot Act (2001)
3. **Cooling-off period for door-to-door sales.** Federal legislation controlling this type of solicitation includes sales which:
 - a. Involve a sale, lease, or rental of consumer goods or services in excess of \$25.
 - b. Include sales in which the seller solicits the sale or the seller responds to an invitation by the buyer.
 - c. Take place in a location other than the business of the seller (excluding craft shows and automobile tent sales.

*This legislation does not cover sales involving telephone solicitations, real estate, insurance, or securities.

Consumer rights include:

- a. The right to be furnished with a contract informing the buyer of the right to cancel the transactions within three business days. The language of the contract must be in the same language as was used to negotiate the transaction.
- b. The right to be furnished with an easily detachable notice of cancellation. The notice must contain the seller's name, address, date within which time cancellation is still effective, and it must be written in the same language that was used to negotiate the transaction.
- c. The right to be informed orally by the salesman of the right to cancel.
- d. The right to have the seller honor a valid notice of cancellation by refunding any payments made within 10 days of the cancellation.

Procedure for canceling:

- a. Within three days, **you** must mail or deliver to the seller a signed and dated copy of the notice of cancellation. If you no longer have the notice of cancellation furnished by the seller, then you may write your own notice of cancellation. This notice must be sent via registered mail, return receipt requested. It is also advised that you keep the postage receipt.
- b. Within ten days, the **seller** must:
 - i. Refund all of your money.
 - ii. Return any goods or property traded in.
 - iii. Cancel and return any signed documents.
 - iv. Inform you if he will pick up anything in your possession or not.
- c. Within twenty days, **you** must:
 - i. Make any goods delivered by the seller available to the seller at your residence in substantially comparable condition to when it was received, or

- ii. Comply with the seller's instructions regarding the return of goods at the seller's risk and expense.
- d. If the seller fails to collect any goods within twenty days of the notice of cancellation, you may dispose of the goods without any further obligation.
- e. If you fail to cancel within the three day period, you still may be able to cancel the contract if the seller fails to deliver the merchandise within thirty days of your signing the contract.
- f. If the seller does not comply with any of the rules under the Act (16 C.F.R. 429), contact the Federal Trade Commission Regional Office, 1718 Peachtree Street, Atlanta, GA 30309, (404) 881-4836.

4. Telemarketing consumer fraud and abuse protections.

Federal legislation imposes several restrictions on telemarketer business practices.

- a. Unreasonable patterns of unsolicited phone calls are forbidden. Your request not to be called by the particular soliciting party must be obeyed.
- b. Unsolicited phone calls must only be made from 0800 to 2100 hours (8am - 9pm).
- c. The caller must state promptly and clearly that the purpose of the call is sales.
 - i. The caller must identify the seller; that the purpose of the call is to sell; the nature of the goods or service being offered; if no purchase is necessary to qualify for a prize; costs and other material information before payment is made.
 - ii. Any offer to arrange loans, credit repair, or to recover money lost to telemarketing scams may not seek payment before rendering the service.
 - iii. Credit card laundering and other deceptive schemes are strictly prohibited.
- d. Civil actions against telemarketers are given jurisdiction in Federal District Court.

Telemarketing regulations do not cover:

- a. Sales completed face-to-face after a phone call;
- b. Non-solicitous calls;
- c. Calls by non-profit organizations;
- d. Customer calls in response to direct mail, general media, or catalogs.
- e. Sales calls regarding investments are subject to either Securities Exchange Commission (SEC) or Commodities Futures Trade Commission (CFTC) regulations.
- f. Although charitable organizations are not covered by the Telemarketer Sales Regulations (TSR), the USA Patriot Act (2001) extends TSR to cover for-profit companies conducting charitable fund raising on behalf of charitable organizations.